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CANADA

National Energy Board

Route Approval Procedures

In approving the route for a pipeline or power line, the National Energy Board uses a two-stage procedure. The first stage is the certification of the general route; the second is the fixing of the detailed route. This bulletin describes the procedure and how landowners and the public can participate.



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THE BOARD

The National Energy Board is an independent federal agency that was created by the Parliament of Canada in 1959. The Board's prime function is to regulate certain areas of the oil, natural gas, and electrical utility industries. Its powers and jurisdiction are based on the National Energy Board Act. Copies of the Act are available from the Canadian Government Publishing Centre, Supply and Services Canada, Ottawa, K1A 0S9 (Price: Canada \$2.75; other countries \$3.30, prices subject to change).

PUBLICATIONS

This information bulletin is one of a series that the Board is publishing on its activities and procedures. Comments on this bulletin or suggestions for future topics would be most welcome.

These bulletins provide general information only. For exact details on particular items, see the relevant legislation.

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ROUTE APPROVAL PROCEDURES

A company seeking to build or extend an interprovincial or international pipeline, or an international power line, must first obtain the Board's authorization for the line, including its route. That authorization is granted by a two-stage process: the first stage is the "certification" of the project, the second is the determination of the "detailed route".

FIRST STAGE - CERTIFICATION

In the first stage, the company applies for a certificate of public convenience and necessity. The Board examines the application, and once it is satisfied that all necessary information has been provided, sets a date for a public hearing. A notice is published in appropriate newspapers announcing the hearing and telling the public how to participate. Interested parties become entitled to receive from the Applicant a copy of the application and all additional material. At the hearing, participants may cross-examine the Applicant's witnesses and present their own evidence and argument.

The purpose of the certificate hearing, among other things, is to select a general route for the line. The selection is based on the economics and engineering of the line, its safety, its environmental effects, and any socio-economic considerations. A number of corridors may be examined and the best chosen. The proposed route within that corridor is then certificated, subject to subsequent examination under the detailed route selection process.

The Corridor Concept

The corridor concept, used by many utilities, allows for the consideration of major constraints and concerns that would have a bearing on the general location of the route in a given area. Once these have been identified, the Applicant uses them in the certificate application to propose a preferred corridor and a proposed route within it.

The types of considerations which must be assessed in the certificate hearing are general land use factors such as agriculture, mining, recreation, heritage, biological resources and human

settlements. To select corridors, such land use factors are often plotted on separate "factor" maps, which are then superimposed to form a "constraint" map. Corridors are then chosen to avoid, where possible, the constraint areas (Figure 1).

The location and width of the corridor depends on the location and extent of the constraint areas. Those constraint areas are not usually included in the corridor. The width normally varies from one section of the corridor to another, and indeed may even vary continuously.

The Certificate

The certificate of public convenience and necessity, once issued, is the general authorization for the project. It establishes the proposed route within the corridor, but may not define the detailed route. The detailed route is fixed by the second stage of the overall procedure where local landowner concerns may be examined.

SECOND STAGE DETAILED ROUTING

The second stage commences when the company files plans, profiles and books of reference for the line. Under Section 29 of the National Energy Board Act, a company receiving a certificate from the Board is required to prepare and file those documents to show the precise location of the line, to specify the lands to be crossed, and to identify the landowners as far as they can be ascertained.

Under the Act, as amended in 1982, the filing of plans, profiles and books of reference sets in motion a series of actions designed to involve landowners and other affected parties. First the company is required to serve a notice on all owners of land proposed to be acquired and to publish a notice in at least one issue of a publication, if any, which is circulated in the area. The notices describe the proposed detailed route and the procedure by which any interested person who opposes the route can present objections to the Board.

A landowner served with the notice who wishes to oppose the route must, within 30 days of being served,

file with the Secretary of the Board a written statement explaining his interest and the grounds for his opposition. Likewise, any adjacent owners who consider that their lands may be adversely affected by the line may, within 30 days of the last publication of the notice, file a similar statement of objection.

If the Board receives any statement opposing the route, it holds a local public hearing to hear representations from all interested persons. The local public hearing affords landowners and affected parties an opportunity to take part in the determination of the final route.

The Board has the authority to allow any reasonable costs incurred by a person in making representations at such a hearing, and such costs are then payable to that person by the company.

After the hearing, the Board takes into account all written statements and all representations made at the hearing and determines the best possible detailed route (Figure 2). The Board then forwards a copy of its decision and reasons to the Minister of Energy, Mines and Resources, and to each person who made a representation at the public hearing.

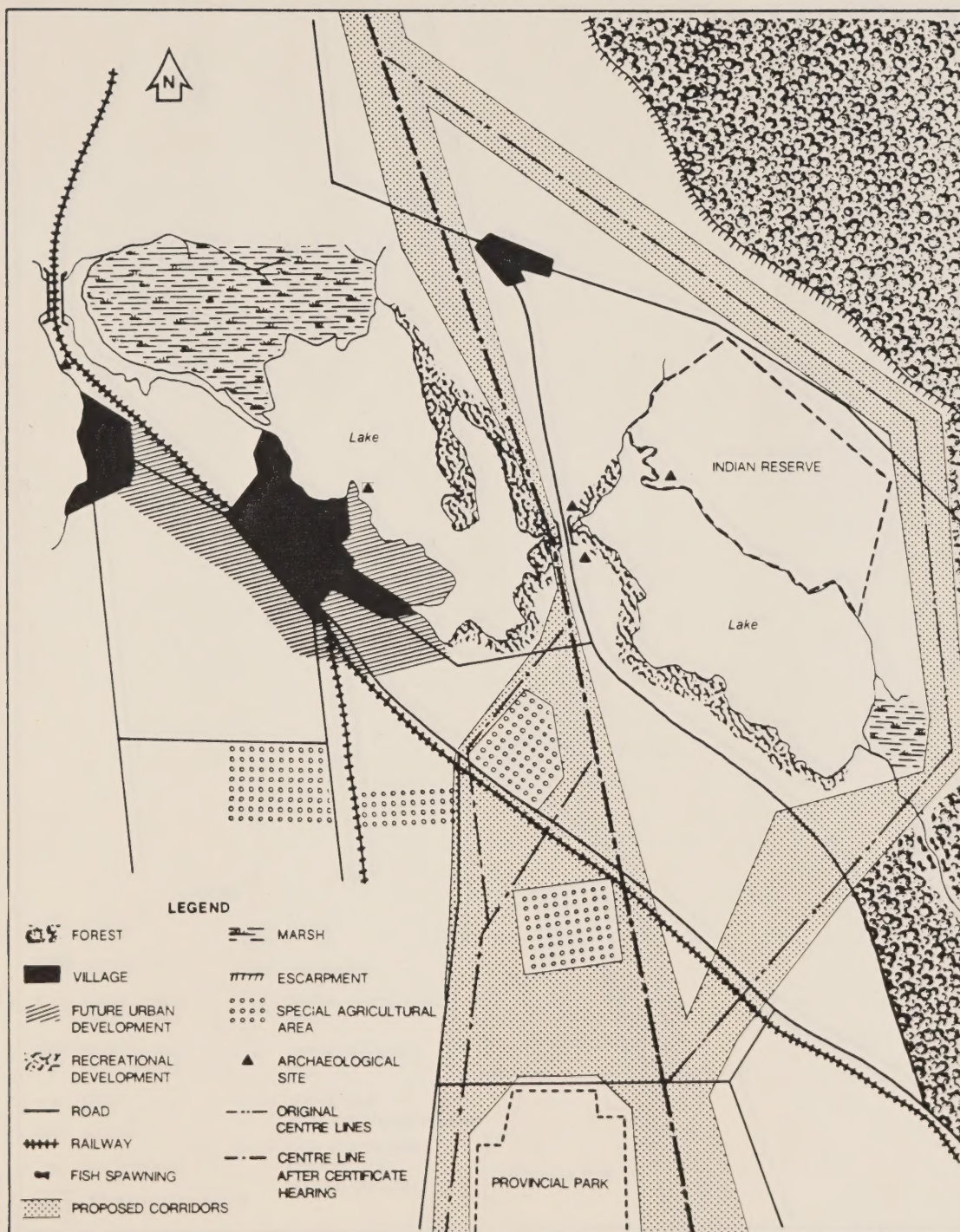
With the determination of the exact route and the approval of plans, profiles and books of reference, the company is in a position to apply to the Board for a right-of-entry order to expropriate those land rights which it has not been able to secure by negotiation.

COMPENSATION FOR LANDS AND DAMAGES


If the parties cannot agree on the compensation payable for the acquisition of lands, or for damages resulting from the company's operations, the company or the landowner can apply to the Minister of Energy, Mines and Resources to request negotiation or arbitration. The Board does not have the authority to deal with questions of compensation.

Every landowner has the option of receiving compensation either in a lump sum or in annual or periodic payments which are subject to review every five years.

FIG. 1 CERTIFICATED ROUTE



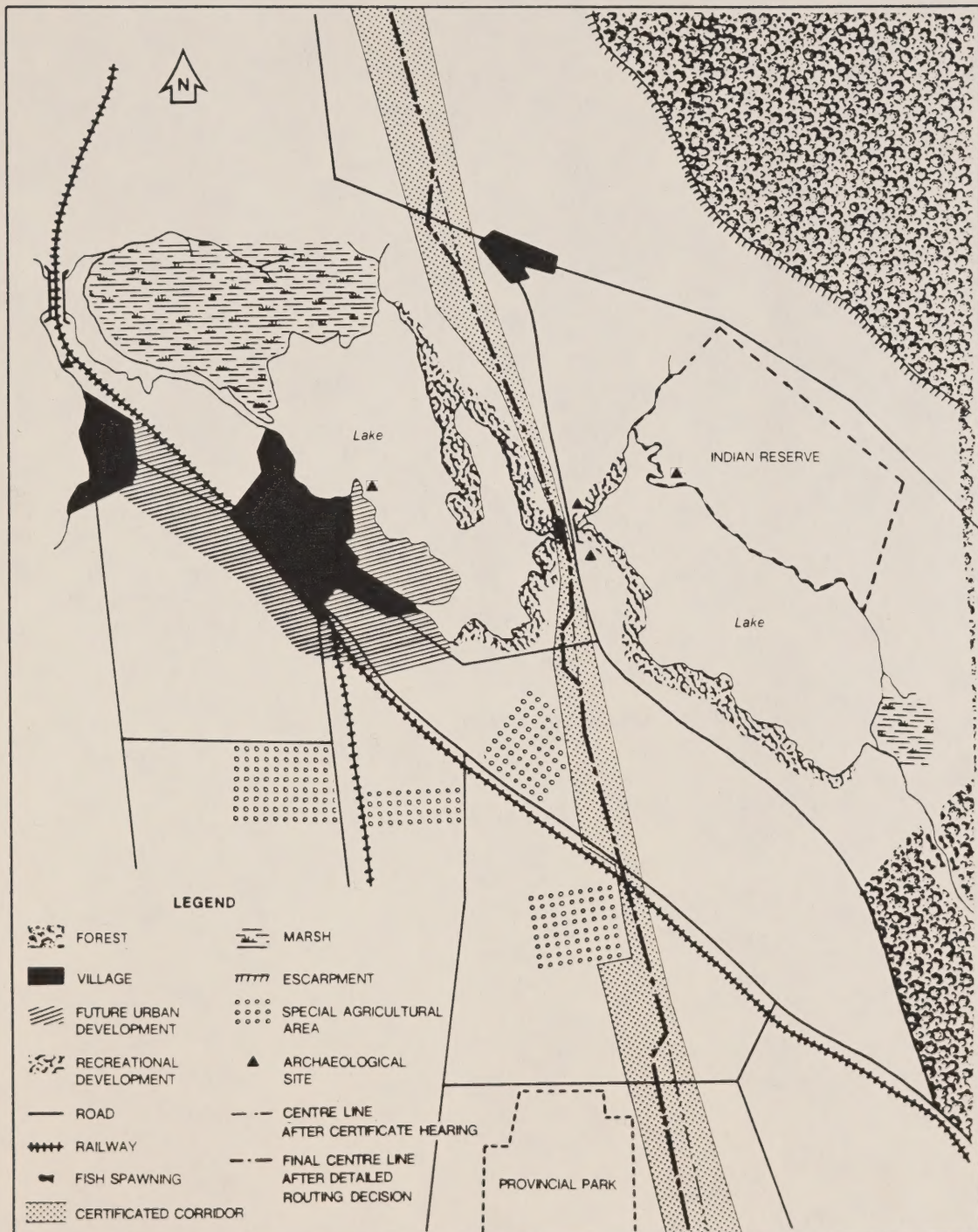
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FIG. 2 DETAILED ROUTE



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